

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

**B.P.J., by her next friend and mother,
HEATHER JACKSON,**

Plaintiff,

v.

**Civil Action No. 2:21-cv-00316
Honorable Joseph R. Goodwin**

**WEST VIRGINIA STATE BOARD OF
EDUCATION; HARRISON COUNTY
BOARD OF EDUCATION; WEST
VIRGINIA SECONDARY SCHOOL
ACTIVITIES COMMISSION; W.
CLAYTON BURCH, in his official
capacity as State Superintendent; and
DORA STUTLER, in her official capacity
as Harrison County Superintendent,**

Defendants.

**DEFENDANTS WEST VIRGINIA STATE BOARD OF EDUCATION AND
SUPERINTENDENT W. CLAYTON BURCH'S MOTION TO DISMISS**

NOW COME Defendants West Virginia State Board of Education and Superintendent W. Clayton Burch (collectively hereinafter “WVBOE”), by and through counsel, Kelly C. Morgan, Michael W. Taylor, Kristen V. Hammond, and the law firm of Bailey & Wyant, P.L.L.C., pursuant to Rule 12(b)(1) and (6) of the *Federal Rules of Civil Procedure*, and hereby move to dismiss these parties from this matter with prejudice because this Court lacks subject-matter jurisdiction over these parties on the basis of standing, ripeness and that the parties are duplicative. Said reasons are more fully presented in the contemporaneously filed Memorandum of Law in Support.

WHEREFORE, based upon the foregoing and the reasons asserted in the contemporaneously filed Memorandum of Law in Support, these Defendants pray this Court will

enter an Order dismissing them from this case with prejudice, as well as all other relief deemed just and proper.

Respectfully Submitted,

**DEFENDANTS WEST VIRGINIA
STATE BOARD OF EDUCATION
and W. CLAYTON BURCH**

By Counsel,

/s/ Kelly C. Morgan

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as Harrison County Superintendent,**

Defendants.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of foregoing “**Defendant West Virginia State Board of Education and Superintendent W. Clayton Burch’s Motion to Dismiss**” was served upon the following parties through the Court’s Electronic Case Filing (ECF) system on this day, Thursday, July 1, 2021:

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